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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,535	11/24/2003	Richard Gribbons	PA1286 CIP	4400
28390	7590	06/04/2004	EXAMINER	
MEDTRONIC VASCULAR, INC.			THOMPSON, MICHAEL M	
IP LEGAL DEPARTMENT			ART UNIT	
3576 UNOCAL PLACE			PAPER NUMBER	
SANTA ROSA, CA 95403			3763	

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/720,535

Applicant(s)

GRIBBONS ET AL.

Examiner

Michael M. Thompson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Objections

2. Claim 6 is objected to because of the following informalities: It is unclear how the device as claimed will have a tri lumen arrangement of side-by-side tubes. In Applicant's drawings it appears that at least two "lumens" or tubular structures must be coaxial while the third may be in a side-by-side arrangement. In fact what could be considered a third "lumen" does not appear to be equivalent to the first and second lumens of the first paragraph claim 1. Appropriate correction is required.

3. Claim 8 is objected to because of the following informalities: It is unclear how the inner tube includes a connecting tube for insertion into the inflation lumen of the proximal shaft when considered in light of claim 8. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

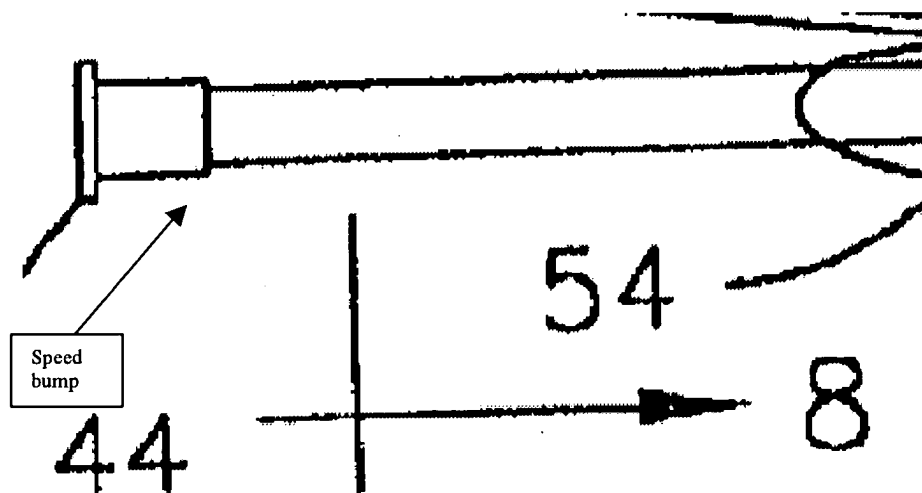
A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Duane et al. (U.S. 2003/0191491 A1). Duane et al. teaches a catheter and guide wire exchange system comprising an elongate flexible catheter shaft having proximal and distal shafts and first and second lumens extending there through (30), the first lumen having a ramp (76/Figure 21) or recess (572) adapted to receive and direct a guide wire and being open at the shaft distal end and being sized and shaped to slidably receive a guide wire, a longitudinal guide way (48) formed in the proximal shaft to enable transverse access to the first lumen through the proximal shaft, the guide way extending along a major portion of the length of the proximal shaft from a location adjacent a proximal end of the proximal shaft to a distal terminal end proximal of a distal end of the proximal shaft, thereby defining an uncut distal segment of the proximal shaft. He teaches a stop (576) located on the proximal shaft at the distal terminal end of the guidewire and speed bump (shown below/ or a distal portion of (54)), a balloon (40) mounted about a distal segment of the distal shaft, the balloon being in fluid communication with the second lumen; a guide member (54) mounted on the proximal shaft and having a catheter passageway extending there through wherein the guide member has at least one keel or scoop (such as 171) disposed within the

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catheter passageway and a guide wire passageway extending through a polyimide tubular member (566/43/43') extending into the catheter passageway; and a transition segment (Figure 21) between the proximal shaft and the distal shaft. In the least as shown in Figure 21, but not limited thereto, the outer tube of the distal shaft overlaps the proximal shaft distal end and the inner tube of the distal shaft is inserted in the guide wire lumen of the proximal shaft to form the transition section and wherein the balloon is a stent delivery balloon (claim 24). Lastly, Duane et al. further teaches that OTW catheters with dual lumen arrangement of a side by side tubes defining a guide wire lumen and an inflation lumen and coaxial arrangement of an inner tube defining a guide wire lumen and an outer tube surrounding the inner tube thereby defining an inflation lumen and transition segments joining the proximal and distal shafts for a bi-lumen and coaxial arrangement. (Page 1, column 2)



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Contacts

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Michael Thompson whose telephone number is (703) 305-1619. The Examiner can normally be reached on Monday through Friday from 9 am to 5 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Primary, Brian Casler, can be reached on (703) 308-3552. The official fax phone number for all submissions to the organization where this application or proceeding is assigned is (703) 872-9306.

Michael M. Thompson

Patent Examiner


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MT 

May 29, 2004